THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27175 OF 2005

Dt.21.12.2005

Between:

P.Satyavathi … Petitioner

And

The Commissioner of Prohibition and Excise,

Government of Andhra Pradesh, Nampally,

Hyderabad and 2 others. … Respondents

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Prohibition and Excise on behalf of the respondents.

The petitioner has filed an application for grant of Form 2-B licence at premises bearing D.No.15-17-03, Goods Shed Road at Eluru under the name and style of M/s.Kinnera Restaurant and Bar in the month of June, 2005 along with necessary documents before the 3rd respondent. It is stated that as per A.P.Excise (Grant of licence of selling by bar and conditions of licence) Rules 2005 the excise years starts from 1st July to 30th June of the succeeding year. To get the licence in advance, an application has been filed by the petitioner

along with necessary documents and no objection certificates. It is stated that the Prohibition and Excise Superintendent, Eluru after conducting necessary enquiry vide proceedings in Rc.No.1461/2005/A1 dated 3.7.2005 sent proposals to the Joint Commissioner (Head Quarters), Prohibition and Excise, Andhra Pradesh, Hyderabad, recommending for grant of 2-B licence. But the Joint Commissioner has not passed any orders on the said proposals. Therefore, the petitioner filed W.P.No.23717 of 2005, which was disposed of by this Court on 10.11.2005, with a direction to the Commissioner of Prohibition and Excise to consider and dispose of the application of the petitioner for sanction of Restaurant and Bar licence pursuant to the recommendations made by the 3rd respondent dated 3.7.2005, in accordance with law, within a period of three weeks from the date of receipt of the said copy of the order. Thereafter, the 3rd respondent vide notice dated 13.12.2005 directed the Station House Officer, Eluru to contact the petitioner to the effect that she would put up R.C.C. roofing for at least 100 Sq.mts and whether she is willing to pay full licence fee and submit the same to the 3rd respondent so as to take further action.

The learned counsel for the petitioner submits that as per the said Rules the petitioner is liable to pay the licence fee only from the date of grant of licence till the end of the excise year and the respondents have no power or authority to collect the licence fee for the entire period prior to the grant of licence fee. In so far as insistence of the condition to provide R.C.C. roofing for at least 100 Sq.mts., is concerned, the learned counsel for the petitioner submits that she will comply with the said condition that imposed in the impugned order. But, the learned counsel for the petitioner questions the action of the respondents in so far as insisting to pay the full licence fee alone.

I am unable to express any opinion as to whether the respondents are entitled to collect the yearly licence fee in the middle of the excise year even without granting the licence. It is stated that the delay on part of the respondents in granting the licence is not at all attributable

to the petitioner. However, all these matters have to be decided in appropriate proceedings. But, in so far as the impugned notice dated 13.12.2005 is concerned, without hearing the other side, no declaration could be made whether the petitioner is entitled to pay the full licence fee or not. However, having regard to the facts and circumstances of the case, the respondents are directed to grant licence without prejudice to the rights of the petitioner to question the action of the respondents in collecting the full licence fee in appropriate writ petition.

The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH, J.)

21.12.2005

Note: Issue copy within two days

B.O

kpr